

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

January 28, 1999

INTERIM ORDER

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates Pursuant to
35-A M.R.S.A. § 7101-B

BRYANT POND TELEPHONE COMPANY	Docket No. 98-891
COBBOSEECONTEE TELEPHONE COMPANY	Docket No. 98-892
COMMUNITY SERVICE TELEPHONE COMPANY	Docket No. 98-893
HAMPDEN TELEPHONE COMPANY	Docket No. 98-894
HARTLAND TELEPHONE COMPANY & ST. ALBANS TELEPHONE COMPANY	Docket No. 98-895
LINCOLNVILLE TELEPHONE COMPANY	Docket No. 98-896
MID-MAINE TELCOM	Docket No. 98-897
NORTHLAND TELEPHONE COMPANY	Docket No. 98-898
OXFORD TELEPHONE COMPANY	Docket No. 98-899
OXFORD WEST TELEPHONE COMPANY	Docket No. 98-900
PINE TREE TELEPHONE COMPANY	Docket No. 98-901
SACO RIVER TELEPHONE COMPANY	Docket No. 98-902
SIDNEY TELEPHONE COMPANY	Docket No. 98-903
SOMERSET TELEPHONE COMPANY/TDS	Docket No. 98-904
CHINA TELEPHONE COMPANY	Docket No. 98-905
ISLAND TELEPHONE COMPANY	Docket No. 98-906
TIDEWATER TELECOM	Docket No. 98-907
UNION RIVER TELEPHONE COMPANY	Docket No. 98-908
UNITEL, INC.	Docket No. 98-909
MAINE TELEPHONE COMPANY	Docket No. 98-910
WARREN TELEPHONE COMPANY	Docket No. 98-911
WEST PENOBSCOT TELEPHONE COMPANY	Docket No. 98-912
STANDISH TELEPHONE COMPANY	Docket No. 98-913

I. SUMMARY

In this Interim Order, we find that 35-A M.R.S.A. § 7101-B requires the Commission to set access rates for independent telephone companies (ITCs) at rates no higher than the National Exchange Carrier Association (NECA) pool disbursement level. Accordingly, by May 30, 1999, the ITCs' access rates must be set at or below that level. However, over the next two years, our objective will be to lower ITC access rates from the NECA disbursements level to NECA tariff rates, which we believe most accurately reflects the intent of the statute. Finally, we clarify the scope of the above-captioned investigations.

II. BACKGROUND

On November 24, 1998, we opened investigations into the rates of each of the ITCs. In the Notice of Investigation, we stated that while we would focus upon the impact of access rate reductions on each company's earnings, the investigation might include the examination of other factors, such as changes to basic local exchange rates. We noted that any adjustment to revenues would be based on an assessment of amounts needed to allow a company an opportunity to earn a fair rate of return.

One of the fundamental issues in each of the investigations is the interpretation of 35-A M.R.S.A. § 7101-B, the law which requires the Commission to establish intrastate access rates which are equal to or below the interstate access rates set by the Federal Communications Commission (FCC). At a case conference on December 22, 1998, the Examiner orally stated a preliminary interpretation of the law and provided the parties with an opportunity to file comments on the issue. However, several parties raised concerns regarding whether such a preliminary determination should be in writing. This Order provides us with an opportunity to our objectives in writing, which should assist the parties in moving these cases forward expeditiously.

III. DECISION

A. Interpretation of 35-A M.R.S.A. § 7101-B

We find that, consistent with Chapter 280 of our Rules, we have the flexibility to set access rates for the ITCs at or below the NECA pool disbursement level. Thus, by May 1999 we intend to move each ITC to access rates which are at or below NECA disbursement levels. After our initial review is completed and all of the ITCs' access rates are at or below the disbursement level, the Commission will examine the resultant rate structure and will explore how best to reduce access rates further, with the objective of minimizing, to the extent practicable, differences in access rates charged by Maine's local exchange carriers. We expect to apply any efficiencies and/or savings found in our review of each company's earnings to the reduction of intrastate access rates before approving any basic service rate increases. We anticipate such a process will take two years. Thus, our goal is to have ITC access rates at the NECA tariff rate by May 2001.

With regard to arguments that the law requires that by May of 1999 the ITCs' access rates be set at the NECA tariff rate, rather than at NECA disbursement levels, we note that the ITCs could have withdrawn from the NECA pool and filed their own

interstate access rates, mirrored those rates on the intrastate side, and argued that they had complied with the letter of the law. 47 C.F.R. § 69. If their filed rates had approximated NECA disbursement levels, we would likely have agreed with the ITCs' arguments for the purposes of May 1999 access rates. Thus, we would be in the same position we are in now and would take the same course we set forth in this Order -- setting ITC access rates at NECA disbursement levels in May of 1999 and then determining the proper size and pace of further reductions.

We believe that the policy and course of action we announce today are sound and will serve the interests of all Maine consumers. Given that Bell Atlantic's intrastate access rates will be at or below its interstate access rates by May 1999, we believe that the current access rate structure of the ITCs is neither economically beneficial nor equitable to the ITCs' access users. Further, maintaining this structure may retard the development of a competitive market in toll service throughout the state. Towns within the rural ITCs' service territories often have great need for economic development and could benefit from robust competition in the intrastate toll market. It is not in the long-term interest of those towns, their residents, or the Commission to forestall that development simply to maintain the ITCs' existing access rate structure.¹

The objectives outlined in today's Order do not preclude an ITC from making a showing that its particular circumstances warrant a deviation from our stated goal of intrastate access rates at the NECA tariff level by May 2001. We remain open to individual company circumstances and mindful of each company's opportunity to earn a reasonable rate of return. We also acknowledge that other proceedings, both state and federal, may affect our final decision. Finally, we are mindful of the impact on Bell Atlantic and its ratepayers of the stipulation we accepted from Bell Atlantic relating to the reduction of access rates pursuant to 35-A M.R.S.A § 7101-B. Thus, the ITCs should not expect revenue neutrality in the form of dollar-for-dollar increases in basic rates or universal service support to offset the loss in access revenues.

We expect that the ITCs will continue to participate fully in the discovery conferences conducted by Staff. We are hopeful that after further discussions, the ITCs and the other parties will propose stipulated transition plans for our review. If no such transition plan is filed for a particular company by August 1, 1999, we will begin the process of opening a rate cases

¹ We are not persuaded by the argument of the OPA that access reductions will not help influence the availability of lower intrastate toll rates and development of more widely-available optional calling plans.

pursuant to our authority under 35-A M.R.S.A. § 1303 to investigate each company's rates to determine whether they continue to be just and reasonable.

B. Scope of Proceedings

As we stated in our Notice of Investigation in each of these proceedings, our investigations will focus on access rate reductions but may entail detailed analysis of company earnings, especially if a company expects to request a basic rate increase to offset reductions in access revenues.² We envision a two-year process of reducing ITC access rates from disbursement levels to NECA tariff levels. To the extent that any ITC chooses to lower its access rates to NECA tariff 5 levels without requesting any increase in basic service rates or universal service support or files a proposed stipulated transition plan by August 1, 1999, we will close our current investigation of that company. Otherwise, by August of 1999, we will close these investigations and begin the process of opening full investigations of each company pursuant to 35-A M.R.S.A. § 1303.

Dated at Augusta, Maine this 28th day of January, 1999.

BY ORDER OF THE COMMISSION

Dennis Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

² To expedite the processing of these cases, we will limit the scope of discovery to matters relevant to the specific phase of the proceeding for a specific company, as well as prioritize the order in which we review each company.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which a reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note:

The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.